

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

LATINO EXPRESS, INC.

and

Case 13-CA-122006

TEAMSTERS LOCAL 777

DECISION AND ORDER

On November 25, 2015, Latino Express, Inc. (the Respondent), Teamsters Local 777 (the Union), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

Findings of Fact

1. The Respondent's business

The Respondent is engaged in the business of providing bus transportation services for students as well as charter bus services to the general public.

In the past calendar year, a representative period, the Respondent has received gross revenues in excess of \$250,000 and purchased and received at its Chicago, Illinois facility goods, products, and materials valued in excess of \$5,000 from points directly outside the State of Illinois.

The Respondent is now, and has been at all material times, an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The labor organization

The Union is now, and has been at all material times, a labor organization within the meaning of Section 2(5) of the Act.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, Latino Express, Inc., Chicago, Illinois, its officers, agents, successors, and assigns, shall

1. Cease and desist from:

(a) Maintaining in its employee handbook unlawful rules that preclude employees from: (1) any action that jeopardizes company contracts or loss of revenues; or (2) any activity which causes harm to the operations or reputation of the Respondent.

(b) Failing and refusing to recognize and bargain collectively with, the Teamsters Local Union No. 777 (the Union) as the exclusive collective-bargaining representative of its employees in the following appropriate unit:

All full-time and regular part-time drivers employed by the Employer at its facility presently located at 3230 West 38th Street, Chicago, Illinois; excluding mechanics, dispatchers, trainers, charter directors, payroll people, payroll assistants, public relations people, maintenance directors, office personnel, professional employees, managerial employees, guards, and supervisors as defined in the Act.

(c) Failing to give notice to and to bargain with the Union concerning the termination of unit employee Franklin Flores.

(d) In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Within 14 days of the Board's Order, to the extent it has not already done so, rescind any rules in its employee handbook that preclude employees from any activity that jeopardizes company contracts or loss of revenues and any activity which causes harm to the operation or reputation of Latino Express Bus, Inc.

(b) Recognize and bargain with Teamsters Local Union No. 777 (the Union), as the exclusive collective-bargaining representative of the employees in the appropriate unit described elsewhere here and sign any agreement reached on terms and conditions of employment.

(c) Bargain with the Union in good faith or to impasse, regarding the termination of unit employee Franklin Flores.

(d) Before issuing discretionary discipline which would have an immediate impact on employees' tenure, status or earnings, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of its unit employees.

(e) Furnish employees with inserts for the current employee handbook that (1) advise that the unlawful rule has been rescinded or (2) provide the language of a lawful rule; or publish and distribute revised handbooks that: (1) do not contain the unlawful rule or (2) provide the language of a lawful rule.

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

(g) Submit to the Compliance Officer of Region 13, written bargaining status reports every 30 days for a period of 6 months.

(h) Within 14 days after service by the Region, post at its Chicago, Illinois facility copies of the "Notice to Employees." Copies of the notice in English and Spanish, on forms provided by the Regional Director for Region 13, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since September 20, 2010.

(i) Within 14 days after service by the Region, hold a meeting or meetings, scheduled to ensure the widest possible attendance, at which the "Notice to Employees" is to be read to the employees by the Respondent's co-owner and vice president, Henry Garduño, Junior or at the Respondent's option, by a Board agent in the presence of Henry Garduño, Junior with translation available. If Garduño, Junior is no longer an owner or officer of the Respondent, then the Respondent shall designate another owner or officer to conduct or be present for the reading.

(j) Within 14 days from the date of this Order, offer Franklin Flores reinstatement and make him whole for any loss of earnings and other benefits as a result of the unlawful discrimination against him.

(k) Within 14 days from the date of this Order, remove from the Respondent's files any references to the unlawful discharge of Franklin Flores and, within 3 days thereafter, notify him in writing that this has been done and that the discharge will not be used against him in any way.

(l) Compensate Franklin Flores for the adverse tax consequences, if any, of receiving one or more lump-sum backpay awards covering periods longer than 1 year.

(m) File a report with the Social Security Administration allocating backpay to the appropriate quarters.

(n) Withdraw all requests for review of Board orders currently before Courts of Appeals.

(o) Publish the signed Notice and "Explanation of Rights" in the Chicago Sun-Times and Hoy.

(p) Mail the signed Notice and "Explanation of Rights" to the homes of all former employees at their last known address who were employed from December 2010 to the approval of this agreement.

(q) Mail the Board Order to all current employees, supervisors, and managers and all former employees employed during relevant times and mail the Board decision and order to newly hired employees, supervisors and manager within 7 days of their hire for a period of 3 years. The mailing should include an explanation that the materials are being sent pursuant to a Board Order.

(r) For 3 years, provide copies of the Notice and "Explanation of Rights" to all new employees, supervisors and managers within 7 days from the date of their employment.

(s) Post the signed Notice and "Explanation of Rights" in the facility for 3 years.

(t) Read the "Explanation of Rights" to all employees, supervisors, and managers at a meeting where at least three-fourths of the complement of unit employees are present. The meeting shall be held in the presence of a Board agent, and the notice and Explanation of Rights shall be read by the Respondent's Owner/President or, at the Respondent's option, by the Board agent in the presence of the Respondent's Owner/President. At least two supervisors/managers must be present at the reading. The Respondent shall maintain sign-in sheets for supervisors and managers at the readings, give them copies of the notice and the Explanation of Rights at the time of the reading, and maintain receipts. The Respondent shall also afford the Union, through the Regional Director, reasonable notice and opportunity to have a representative present when the notice and the Explanation of Rights are read to employees. Translation shall be made available for any individual whose language of fluency is other than English. The meetings shall be for the above-stated purpose only. The Respondent shall allow all employees to attend these meetings without penalty or adverse employment consequences, either financial or otherwise.

(u) Meet for bargaining sessions with the Union for two months, no less than twice per month for six hours. At the conclusion of the two months of mandatory sessions, the parties will report their progress and satisfaction with bargaining progress to the Region. If the Region determines that continued bi-weekly bargaining is necessary, the Region can

require additional mandatory sessions of its choosing for one year. If the parties are in agreement regarding the sufficiency of the bargaining progress, the parties can set their own schedule for bargaining after the two months of initial bargaining has concluded.

(v) Provide the Union with a meeting, exclusive of any other meetings required by this agreement, for a duration of no less than 30 minutes during working time in order for the Union to acclimate itself with the bargaining unit employees. Management personnel are prohibited from attending the meeting.

(w) Permit Agents of the Board, for a period of 3 years, to visit the Respondent's facility to monitor compliance of the posting, distribution, and mailing requirements.

(x) Grant access to the facility/break room area to the Union once per week provided the Union gives 24 hours notice of its intention to access the facility.

(y) Reintroduce the Union to the employees at the company for no less than 30 minutes with the Company President present. Introductions to be made (1) upon signing of the settlement agreement; (2) beginning of the year; (3) after winter holiday break; and (4) before summer school.

(z) Provide the Union a bulletin board where employees can access it.

(aa) Provide the Union a list of the Unit with contact information and seniority.

Dated, Washington, D.C., March 25, 2016

Mark Gaston Pearce, Chairman

Kent Y. Hirozawa, Member

Lauren McFerran, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF APPEALS

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT maintain an employee handbook with unlawful rules that preclude employees from: (1) any action that jeopardizes company contracts or loss of revenues; or (2) any activity which causes harm to the operations or reputation of the company.

WE WILL NOT fail or refuse to recognize and bargain collectively with, the Teamsters Local Union No. 777 (the Union) as the exclusive collective-bargaining representative of employees in the following appropriate unit:

All full-time and regular part-time drivers employed by the Employer at its facility presently located at 3230 West 38th Street, Chicago, Illinois; excluding mechanics, dispatchers, trainers, charter directors, payroll people, payroll assistants, public relations people, maintenance directors, office personnel, professional employees, managerial employees, guards, and supervisors as defined in the Act.

WE WILL NOT fail to give notice to and to bargain with the Union concerning the termination of unit employee Franklin Flores.

WE WILL NOT in any other manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you under Section 7 of the Act.

WE WILL within 14 days of the Board's Order, to the extent we have not already done so, rescind any rules in our employee handbook that preclude employees from any activity that jeopardizes company contracts or loss of revenues and any activity which causes harm to the operation or reputation of Latino Express Inc.

WE WILL recognize and bargain with Teamsters Local Union No. 777 (the Union), as the exclusive collective-bargaining representative of the unit and sign any agreement reached on terms and conditions of employment.

WE WILL bargain with the Union in good faith or to impasse, regarding the termination of unit employee Franklin Flores.

WE WILL before issuing discretionary discipline which would have an immediate impact on employees' tenure, status or earnings, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of our unit employees.

WE WILL furnish employees with inserts for the current employee handbook that (1) advise that the unlawful rule has been rescinded or (2) provide the language of a lawful rule; or publish and distribute revised handbooks that: (1) do not contain the unlawful rule or (2) provide the language of a lawful rule.

WE WILL within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that we have taken to comply with the terms of the settlement agreement.

WE WILL submit to the Compliance Officer of Region 13, written bargaining status reports every 30 days for a period of 6 months.

WE WILL within 14 days after service by the Region, post at our Chicago, Illinois facility copies of the "Notice to Employees". Copies of the notice in English and Spanish, on forms provided by the Regional Director for Region 13, after being signed by our authorized representative, shall be posted and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. We shall take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material. If we go out of business or close the facility, we shall duplicate and mail, at our own expense, a copy of the notice to all current employees and former employees employed at any time since September 20, 2010.

WE WILL within 14 days after service by the Region, hold a meeting or meetings, scheduled to ensure the widest possible attendance, at which the "Notice to Employees" will be read to unit employees by co-owner and vice president, Henry Garduño, Junior or by a Board agent in the presence of Henry Garduño, Junior with translation available. If Garduño, Junior is no longer an owner or officer, then we shall designate another owner or officer to conduct or be present for the reading.

WE WILL within 14 days from the date of this Order, offer Franklin Flores reinstatement and make him whole for any loss of earnings and other benefits as a result of the unlawful discrimination against him.

WE WILL within 14 days from the date of this Order, remove from our files any references to the unlawful discharge of Franklin Flores and, within 3 days thereafter, notify him in writing that this has been done and that the discharge will not be used against him in any way.

WE WILL compensate Franklin Flores for the adverse tax consequences, if any, of receiving one or more lump-sum backpay awards covering periods longer than 1 year.

WE WILL file a report with the Social Security Administration allocating backpay to the appropriate quarters.

WE WILL withdraw all requests for review of Board orders currently pending in the Courts of Appeals.

WE WILL publish the signed Notice and "Explanation of Rights" in the Chicago Sun-Times and Hoy.

WE WILL mail the signed Notice and "Explanation of Rights" to the homes of all former employees at their last known address who were employed from December 2010 to the approval of this agreement.

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WE WILL post the signed Notice and "Explanation of Rights" in the facility for 3 years.

WE WILL read the "Explanation of Rights" to all employees, supervisors, and managers at a meeting where at least three-fourths of our complement of unit employees are present. The meeting shall be held in the presence of a Board agent, and the notice and Explanation of Rights shall be read by our Owner/President or, at our option, by the Board agent in the presence of our Owner/President. At least two supervisors/managers must be present at the reading. We shall maintain sign-in sheets for supervisors and managers at the readings, give them copies of the notice and the Explanation of Rights at the time of the reading, and maintain receipts. We shall also afford the Union, through the Regional Director, reasonable notice and opportunity to have a representative present when the notice and the Explanation of Rights are read to employees. Translation shall be made available for any individual whose language of fluency is other than English. The meetings shall be for the above-stated purpose only. We shall allow all employees to attend these meetings without penalty or adverse employment consequences, either financial or otherwise.

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WE WILL provide the Union a bulletin board where employees can access it.

WE WILL provide the Union a list of the Unit employees with contact information and seniority.

LATINO EXPRESS, INC.

The Board's decision can be found at www.nlr.gov/case/13-CA-122006 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

